

February 27, 2004  
**Sent via electronic mail, facsimile and regular mail**

Mr. Steve Tuber  
Acting Assistant Regional Administrator  
Office of Partnerships and Regulatory Assistance  
United States Environmental Protection Agency  
999 18<sup>th</sup> Street, Suite 300  
Denver, CO. 80202

Re: CERCLA Off-Site Rule-January 3, 2003 Notice of Unacceptability  
Cotter Corporation Canon City Milling Facility

Dear Mr. Tuber,

Cotter has worked diligently to resolve the issues relating to the above-captioned Notice of Unacceptability for the two impoundments at the Canon City Milling Facility. On September 29, 2003, the EPA corresponded with Cotter regarding the status of outstanding issues. The Agency's letter indicated that all but one issue had been resolved and advised that Cotter should obtain a letter from the Department of Energy (DOE) indicating that the presence of any non-11e.(2) materials within the subject impoundments would "not inhibit transfer of title". Subsequent to the receipt of this correspondence, Cotter met with the Agency for clarification and convened a meeting with DOE representatives on October 14, 2003 to determine the specific information needed by DOE in order to make such a finding. That information was compiled and transmitted to Mr. Art Kleinrath in draft (per his request) on November 5, 2003. DOE completed its review and the finalized letter addressed to Donna A. Bergman-Tabbert, Director Office of Land and Site Management for the U.S. Department of Energy was transmitted on December 18, 2003. In response, Cotter was issued a letter from the DOE on December 31, 2003 finding that the non-11e.(2) activities described "should not inhibit transfer of the site" and that "if the State of Colorado does not exercise its option for long-term custodial care, DOE is prepared to take title to the land and the non-11e.(2) by product material at the Canon City site". A copy of the DOE's letter was transmitted to USEPA on January 8, 2004. Based upon DOE's finding, all issues relative to the OSR Notice of Unacceptability (as it pertains to the Canon City Mill tailing impoundments) have been resolved.

In a February 26, 2004 telephone conversation with Mr. Terry Brown of your staff regarding this matter, Mr. Brown reported to me that Cotter will need to formally request that the Agency abate its January 3, 2003 NOU and that the Agency would need to arrange for an inspection of the facility prior to final abatement. Accordingly, Cotter requests an additional 60 day time extension to allow for the Agency to receive Cotter's request (being sent under separate cover) and make arrangements for completion of the

needed inspection. Cotter has made a good faith effort to resolve all outstanding issues (including the issues leading to the USEPA's Notice of Unacceptability). Cotter's extension request is made pursuant to the provisions of 40CFR300.440(d)(8).

If you should have any questions regarding Cotter's request for a 60 day time extension on the Notice of Unacceptability please contact me.

Sincerely,

Steven D. Landau  
Manager, Environmental Affairs

cc. Terry Brown, USEPA  
Steve Tarlton, CDPHE  
Phil Egidi, CDPHE